# Neg Wiki Doc

# 1NC

## Off

### 1NC – T

#### Topical affirmatives must advocate a policy whereby the United States federal government expands the scope of one or more of its core antitrust laws.

#### Resolved means to enact a policy by law.

Words & Phrases ’64 [Words and Phrases; 1964; Permanent Edition]

Definition of the word “resolve,” given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It is of similar force to the word “enact,” which is defined by Bouvier as meaning “to establish by law”.

#### The United States federal government is the national government in DC.

Black’s Law ‘4 [Black’s Law Dictionary; 6/1/4; 8th Edition, p. 716]

Federal government. 1. A national government that exercises some degree of control over smaller political units that have surrendered some degree of power in exchange for the right to participate in national politics matters – Also termed (in federal states) central government. 2. the U.S. government – Also termed national government. [Cases: United States -1 C.J.S. United States - - 2-3]

#### Should means mandating something be done.

Nieto ‘9 [Judge Henry Nieto, Colorado Court of Appeals, 8-20-2009 People v. Munoz, 240 P.3d 311 (Colo. Ct. App. 2009)]

"Should" is "used . . . to express duty, obligation, propriety, or expediency." Webster's Third New International Dictionary 2104 (2002). Courts [\*\*15] interpreting the word in various contexts have drawn conflicting conclusions, although the weight of authority appears to favor interpreting "should" in an imperative, obligatory sense. HN7A number of courts, confronted with the question of whether using the word "should" in jury instructions conforms with the Fifth and Sixth Amendment protections governing the reasonable doubt standard, have upheld instructions using the word. In the courts of other states in which a defendant has argued that the word "should" in the reasonable doubt instruction does not sufficiently inform the jury that it is bound to find the defendant not guilty if insufficient proof is submitted at trial, the courts have squarely rejected the argument. They reasoned that the word "conveys a sense of duty and obligation and could not be misunderstood by a jury." See State v. McCloud, 257 Kan. 1, 891 P.2d 324, 335 (Kan. 1995); see also Tyson v. State, 217 Ga. App. 428, 457 S.E.2d 690, 691-92 (Ga. Ct. App. 1995) (finding argument that "should" is directional but not instructional to be without merit); Commonwealth v. Hammond, 350 Pa. Super. 477, 504 A.2d 940, 941-42 (Pa. Super. Ct. 1986). Notably, courts interpreting the word "should" in other types of jury instructions [\*\*16] have also found that the word conveys to the jury a sense of duty or obligation and not discretion. In Little v. State, 261 Ark. 859, 554 S.W.2d 312, 324 (Ark. 1977), the Arkansas Supreme Court interpreted the word "should" in an instruction on circumstantial evidence as synonymous with the word "must" and rejected the defendant's argument that the jury may have been misled by the court's use of the word in the instruction. Similarly, the Missouri Supreme Court rejected a defendant's argument that the court erred by not using the word "should" in an instruction on witness credibility which used the word "must" because the two words have the same meaning. State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958). [\*318] In applying a child support statute, the Arizona Court of Appeals concluded that a legislature's or commission's use of the word "should" is meant to convey duty or obligation. McNutt v. McNutt, 203 Ariz. 28, 49 P.3d 300, 306 (Ariz. Ct. App. 2002) (finding a statute stating that child support expenditures "should" be allocated for the purpose of parents' federal tax exemption to be mandatory).

#### Prohibitions are laws forbidding something.

Collins ‘ND [Collins Dictionary; “Prohibition”; https://www.collinsdictionary.com/dictionary/english/prohibition; AS]

A prohibition is a law or rule forbidding something.

#### The core antitrust laws are the Sherman, Clayton, and FTC Acts.

Nam ’17 [Steven S; Distinguished Practitioner, Center for East Asian Studies, Stanford University; 2017; “OUR COUNTRY, RIGHT OR WRONG: THE FTC ACT'S INFLUENCE ON NATIONAL SILOS IN ANTITRUST ENFORCEMENT”; 20 U. Pa. J. Bus. L. 210; Lexis]

Enacted in 1914 to bolster and clarify the government's authority to hold accountable business enterprises that harm or endanger market competition, the FTC Act is one of three core federal antitrust laws together with the Sherman and Clayton Acts. The "catch-all" legislation established the FTC and empowers commissioners to investigate a wide range of anticompetitive business practices and to penalize culpable companies. 27Section 5 is central to the statute with its prohibition of "unfair methods of competition in or affecting commerce," as well as "unfair or deceptive acts or practices in or affecting commerce." 28 Any violation of U.S. antitrust laws--including, but not limited to, monopolization under Section 2 of the Sherman Act and mergers and acquisitions that trigger Section 7 of the Clayton Act--constitutes a violation of the FTC Act.

#### Debate is a game and we’re both here to win – this means procedural questions like T come first. Two impacts:

#### Fairness – the negative begins preparation from a predictable reading of the resolution. Absent limitations on advocacy, the affirmative has a structural advantage since they can recontextualize their case and permute alternatives. Competitive incentives discourage the aff from providing the negative options that fall within their pre-tournament preparation. Preserving an equitable chance of victory between aff and neg benefits all teams. That outweighs and necessarily precedes their offense because debate is inherently bounded by competitive incentives – the judge must pick a winner and loser, enforce speech times, consider dropped arguments as true. Because the conditions of debateability is a prerequisite to evaluation of the content of a debate - procedural questions like T precede substantive ones and the ballot should decide who better debated the resolutional question.

#### Clash. Resolutional debates focus on specific points of disagreement, which encourages teams to develop third and fourth line responses to arguments. This strategic process has significant pedagogical value in training us to think through the other side’s argument, which promotes the problematization of solutions and the actualization of debate’s benefits.

### 1NC – Atlantic K

#### The very paradigm of blackness is Eurocentric – it reduces “Africa” to “sub-Saharan Africa” and erases other African diasporas.

Zeleza ’10 [Paul Tiyambe Zeleza is the dean of the Bellarmine College of Liberal Arts and Presidential Professor of African American Studies and History at Loyola Marymount University. He served as the director of the Center for African Studies at the University of Illinois at Urbana-Champaign, and was the Liberal Arts and Sciences Distinguished Professor and head of the Department of African American Studies at the University of Illinois at Chicago. African Diasporas: Toward a Global History https://muse.jhu.edu/article/384918]

This implies that our conception of "African diasporas" crucially depends on how we define these very terms, and these definitions in turn have national and transnational contexts that frame them. This is merely to stress the obvious point that hegemonic ideas ride on the hegemonies of material power. This is why the Afro-Atlantic and the African American models are dominant, but it is for the same reason that they should not be applied to other world regions unquestioningly, however accurately they capture and explain the historical experiences and struggles in the Afro-Atlantic world and the United States. Even internally, as we all know, these models are not cast in the iron grid of methodological and theoretical rigidity. But as is often the case with discursive exports, they acquire the conceits of suffocating homogeneity as they cross the Atlantic to foreign lands.

The Atlantic model is problematic when applied to other world regions and periods in part because it is premised on a conception of "Africa" as "sub-Saharan Africa," a racialized construct that haunted African studies [End Page 6] in Euroamerica over the last century and that some African scholars have desperately sought to deconstruct. This reflects the dominance in the Euro-American academy of the Atlantic model and of race in the fields of African studies in general and African diaspora studies in particular. Quite predictably, "black" is the paradigmatic trope in Afro-Atlantic diaspora studies, the pivot around which discourses of "African" diaspora identities, subjectivities, transnationalisms, engagements, or dialogues are framed and debated.

This is quite evident in several recent studies. Let me just mention three, all published in 2009. The first is Patrick Manning's The African Diaspora: A History Through Culture, which despite its global ambitions remains trapped in Eurocentric cartographic conceptions of Africa as sub-Saharan Africa and American preoccupations with the black diaspora**.** The others openlysubstitute "Africa" with "black." The two-volume Encyclopedia of Blacks in European History and Culture (Martone 2009) focuses on the historical experiences in Europe of peoples from sub-Saharan Africa except where an Afrocentric claim cannot be resisted and North Africa is sneaked in. In Black Europe and the African Diaspora by Hine at al., the mostly U.S.-based authors have great difficulty in explaining what they mean by "Black Europe," and their African diaspora in Europe excludes North Africans, who surely do have a claim to an African origin and identity as much as the descendants of diasporans from the Americas who have relocated to Europe or the offspring of migrants from sub-Saharan Africa. Indeed, there has been a proliferation of studies on "Black Europe" that are largely patterned on "Black America" and remain trapped in the racialized discourses and imaginaries of American studies. Ironically, "Black Europe" has continued to be inscribed long after "Black Americans" have become African Americans.

The conflation of African diaspora formations with the histories and geographies of Atlantic slavery disregards the histories of other African diasporas in the Americas, both during the period of the slave trade and after. To begin with, it fails to problematize the identity of the very Iberians—the Spanish and Portuguese—who began the conquest of the Americas. Among them were peoples of African descent who had been resident in Iberia for centuries. On my trip to Spain this summer, an Afro-Spanish scholar and activist insisted that Spanish identity only fully dis-Africanized itself following the country's inclusion in the European project (Toasije 2009). The joke that Africa began at the Pyrenees articulates Spain's and Portugal's mixed historical heritage from the Moors (or, according to some, Muslims, Arabs, or Berbers—the designations are themselves quite revealing) who conquered and ruled large parts of the peninsula between 711 and 1492. In the view of Anouar Majid (2000:77), a Moroccan scholar, Al Andalus could be considered "essentially an African kingdom in Europe." Recent work on the migrations of the Moriscos, Ladinos, and even Cape Verdians to the Americas is pertinent in this regard (Garafalo forthcoming; Molina & López 2001). [End Page 7]

The findings on the free Afro-Iberian migrations to the Americas serve to qualify, but do not of course displace, the centrality of forced migrations from western Africa to the Americas. But in its universalizing ambitions, the Afro-Atlantic model easily yields to a Eurocentric conception of Africa in which Africa, Hegel's (1956:91) "Africa proper," entails sub-Saharan Africa and African diasporas are exclusively "black," a paradigm that leads to a preoccupation with the formation of black racial identities among African diasporas. This model also ignores the formation of "new" African diasporas out of voluntary migrations since the abolition of slavery and especially since decolonization.

Over the last two decades, more African migrants have been arriving in the United States than during the Atlantic slave trade. As shown in the recent capacious collection by Isidore Okpewho and Nkiru Nzegwu, The New African Diaspora (2009), the mobilities, experiences, identities, and dialogues of these diasporas differ and intersect with those of the historic Afro-Atlantic diasporas in complex and contradictory ways.6 The very existence of intercultural and intertextual diaspora spaces in which they find themselves ensures complex negotiations and performances of racial, national, ethnic, and gender identities that are neither already fixed in the diaspora nor imported from Africa. And of course we know the identities of the historic Afro-Atlantic diaporas are not frozen; they have continually been reconstructed and reshaped by changing economic, social, cultural, and political contexts, and through the dialogic and dialectical interplay of material and discursive processes, the shifting structures of power, and the agencies of resistance.

But even for the historic Afro-Atlantic diasporas, some scholars object to the regionalization of the African American model in which the U.S. experience and modes of racialization and identity formation are often generalized to the rest of the Americas, even though Afro-Latin America, which is more than twice as large as Afro-North America, has its own quite distinctive histories. Paul Gilroy's influential Black Atlantic (1993), which ignores both Africa and Afro-Latin America, exemplifies this Anglophone analytical conceit. Let me hasten to add that in recent years many U.S. diaspora scholars have produced excellent comparative studies of Afro-Atlantic diaspora histories and anthropologies. The works by Sheila Walker (2001), George Andrews (2004), and Kevin Yelvington (2006) readily come to mind.

Historical Mappings

The Afro-Atlantic model is clearly inadequate when applied to the much older and more complicated histories of African interactions with, and diasporas in, Europe and Asia. I am struck by the amount of intellectual energy expended in trying to restrict the histories of African movements to Europe and Asia, and to force the formation of African diasporas in these regions into the Atlantic model by seeing their movements primarily in [End Page 8] terms of slavery and sub-Saharan Africans. "Africa" and "Africans" of course include "blacks" but are not confined to them, and before the twentieth century some Africans went to Europe and Asia as enslaved people, but not all, perhaps not even the majority, and their identities were not always framed by American-style regimes of racialization. Other social inscriptions and ideologies such as religion sometimes played a more salient role.

Systematic studies of African diasporas in Europe and Asia are a recent phenomenon. Both are inspired by some of the same forces noted earlier. In the case of Europe, additional impetus has been provided by the increased African migrations over the last few decades and by European anxieties, which have manifested themselves both in the development of multiculturalism as public policy and in xenophobic violence. In Europe the definitional challenges are thrown into particularly sharp relief: do we talk of "black" or "African" diasporas, "Black Europe" or "Afro-Europe"? Some of the scholarship on "Black Europe," "Black Britain," "Black France," and so on, is illuminating, but much of it, which seems to borrow uncritically from the Atlantic model, is clearly problematic. These works are often written by African American scholars, specialists in African American studies, or Afro-European scholars who have discovered their epistemic and existential blackness on American campuses and remained in the United States; an example of the latter is Pap Ndiaye (2008), the Afro-French historian, whose celebrated La Condition Noire was inspired by his studies of African American history.7

#### We must transcend their methodology – it re-inscribes the Eurocentric “tyranny of the Atlantic.”

Allen ’14 [Richard B. Allen, Professor of History Framingham State University & Research Consultant and Editor Aapravasi Ghat Trust Fund (UNESCO World Heritage Site). Slaves, Convicts, Abolitionism and the Global Origins of the Post-Emancipation Indentured Labor System, Slavery & Abolition, 2014 Vol. 35, No. 2, 328–348, http://dx.doi.org/10.1080/0144039X.2013.870789 http://piketty.pse.ens.fr/files/Allen2014.pdf]

The historiography of the free and forced labor trades that supplied European plantation colonies with millions of African, Indian, East Asian and other non-western workers between the seventeenth and early twentieth centuries is a case study in geographical, chronological and topical compartmentalization. Histories of European slave trading, the attendant African diaspora to the Americas and European abolitionism remain subject to what Edward Alpers aptly characterized more than 15 years ago as the ‘tyranny of the Atlantic’ in slavery studies.1 As their preoccupation with developments in Britain and the Caribbean attest, studies of the ‘great’ or ‘mighty experiment’ with the use of indentured labor following slave emancipation in the British Empire likewise tend to focus on the Atlantic world despite a long-standing awareness that the Indian Ocean island of Mauritius was the site of the crucial test case for the use of free agricultural laborers working under long-term written contracts and a wealth of demographic data which highlight the Indian Ocean’s importance in the history of a system that scattered more than 2.2 million workers throughout and beyond the colonial plantation world between the 1830s and 1920s.2 More indentured laborers landed in Mauritius than in any other colony while the total number of such workers who reached European colonies in the Indian Ocean basin surpassed those who arrived in the Caribbean by some 259,000.3 The Indian Ocean’s significance in this global labor migration becomes even more pronounced if the 1.5 million or more individuals who emigrated from southern India to plantations in Ceylon (Sri Lanka) and Malaya to work under short-term, often verbal, contracts between the 1840s and the early twentieth century, and the 700,000–750,000 Indian migrants who labored on Assamese plantations between 1870 and 1900 are included in this labor diaspora.4

This historiographical tendency to privilege one oceanic world is matched by a propensity to draw a sharp dividing line between the pre- and post-emancipation eras despite widespread acceptance of the argument that the years after 1834 witnessed the creation and institutionalization of a ‘new system of slavery’ in the colonial plantation world.5 Histories of British colonies in the Caribbean and elsewhere usually end with the abolition of slavery in 1834 or occasionally with the termination of the ‘apprenticeship’ system in 1838, while studies of indentured laborers in these same colonies frequently pay little attention to the slave regimes that preceded them. Debates about conceptualizing and interpreting the indentured experience likewise reflect this tendency to view the colonial plantation world in terms of sharply demarcated pre- and post-1834 eras.6

The consequences of this chronological apartheid include an implicit, if not explicit, tendency to view the post-emancipation indentured labor system as a phenomenon separate and distinct unto itself, a notion which is reinforced by the historiographical emphasis on reconstructing the experience of indentured Indians to the exclusion of the hundreds of thousands of African, East Asian, Melanesian and other workers who also migrated throughout and beyond the colonial plantation world during the nineteenth and early twentieth centuries.7 This Indo-centrism is compounded in turn by a continuing penchant to focus on reconstructing limited aspects of indentured workers’ lives, doing so within tightly circumscribed social, economic, political and cultural contexts, and failing to compare local developments with those of indentured workers elsewhere in the colonial plantation world.8

These conceptual problems are similar to the pitfalls, especially methodological nationalism and Euro-centrism, identified by those working in the emerging field of global labor history as characteristic features of traditional theories about and interpretations of transnational labor migration.9 Recent research on labor migration in the Indian Ocean underscores the fact that a fuller understanding of the labor trades which supplied European colonies with millions of free and forced laborers is contingent upon transcending this preoccupation with the particular. Clare Anderson’s perceptive examination of the similar ways in which British officials thought about and processed Indian convicts and indentured laborers during the early nineteenth century, for example, demonstrates that these two labor trades can no longer be viewed in isolation from one another.10 Other work has established the increasing interconnectednessof the slave, convict and indentured labor trades in the Indian Ocean during the late eighteenth and early nineteenth centuries.11 In so doing, this research reveals that the post-emancipation indentured labor system originated some 25 years earlier than previously believed, that it took shape on a global stage that stretched from the Caribbean and the banks of the Thames to an obscure island in the South Atlantic and thence across the Indian Ocean to the Malay peninsula and finally to China, and that the British East India Company corporate-state played a significant and hitherto unappreciated role in this global migrant labor system’s early development.

#### Voting negative endorses a global systems paradigm – it’s the only way to generate a fuller understanding of African diaspora.

Allen ’14 [Richard B. Allen, Professor of History Framingham State University & Research Consultant and Editor Aapravasi Ghat Trust Fund (UNESCO World Heritage Site). Slaves, Convicts, Abolitionism and the Global Origins of the Post-Emancipation Indentured Labor System, Slavery & Abolition, 2014 Vol. 35, No. 2, 328–348, http://dx.doi.org/10.1080/0144039X.2013.870789 http://piketty.pse.ens.fr/files/Allen2014.pdf]

In his excellent survey of indentured labor in the age of imperialism, David Northrup emphasized the need to view the movement of millions of indentured workers throughout and beyond the colonial plantation world not only in the context of its times, but also as a global system that invites comparison with the great European migrations of the day and age.93 Even a cursory survey of published scholarship since the appearance of Northrup’s book almost 20 years ago reveals, however, that indentured labor studies remain hobbled by a failure to examine the indentured experience in well-developed local, regional, global and comparative contexts. This historiographical inertia may be traced to various factors: the continuing dominance of the Tinkerian ‘new system of slavery’ paradigm in both scholarly and public discourse about indentured labor; a corresponding propensity to view this system’s origins largely, if not exclusively, through the prism of an Atlantic-centric abolitionism in which the 1834 emancipation of slaves in the British Empire has acquired iconic status; and an Indo-centrism that distracts attention from or obscures work on other indentured populations. Northrup’s comments about the origins of the indentured labor trade echo these historiographical preoccupations:

Despite the existence of a few earlier experiments, it is fair to say that the new indentured labor trade arose in direct response to the abolition of slavery in the colonies of Great Britain in the 1830s and to its subsequent abolition or decline in French, Dutch, and Spanish colonies.94

Recent research on free and forced labor migration in the Indian Ocean reveals that the early experiments to which Northrup referred were, however, neither few in number nor marginally important to understanding the indentured labor system’s origins and subsequent development. This research highlights, moreover, that these experiments occurred in a truly global setting that stretched from the Caribbean to the South Atlantic and across the Indian Ocean to Southeast Asia and China. That this was so should come as no surprise given recent scholarship on the trans-imperial movement of ideas, personnel and news with the British Empire, especially during the late eighteenth and nineteenth centuries.95 As P.J. Marshall has trenchantly observed, if there were significant differences between the British experience in the Atlantic and Indian Ocean worlds, there were also significant similarities between these two components of a single imperial entity.96 Compelling work on the impact that public knowledge about and perceptions of empire had on British politics and identity underscores this point.97 So do astute assessments of the limitations inherent in oceanic basin approaches to studying labor migration and maritime history.98 Insights provided by the emerging field of global labor history, including case studies such as Jan Lucassen’s examination of the VOC’s role in the emergence of an international labor market which connected Europe with southern Africa and South and Southeast Asia, further illustrate the need for indentured labor historians to transcend the conceptual parochialism that inhibits the development of a much fuller understanding of this post-emancipation labor system in all of its complexity.99 The challenge before us is, accordingly, to probe much more deeply and perceptively into the ways in which the complex dialog within and between these oceanic worlds shaped the nature and dynamics of a global migrant labor system, the legacy of which continues to resonate in our own day and age.

### 1NC – Labor Counter-Advocacy

#### We advocate the United States federal government should treat any vertical restraint exercised by a firm with market power as a per se violation of its core antitrust laws.

#### Antitrust law allocates the right to coordinate economic activity. The consumer model of economic efficiency privileges allocating coordinating rights to large powerful firms.

Sanjukta **PAUL** Law @ Wayne State **’19** “Fissuring and the Firm Exemption” *Law and Contemporary Problems* 82:65 p. 68-72

A. Franchising

Franchising typifies the dynamic that has driven the expansion of large firms' coordination rights under conditions of business fissuring: an iterative interaction between shifting legal norms and affirmative decisions about structuring business arrangements. Franchisors succeeded in normalizing their business model in the eyes of the public, institutional actors, and the decisional law, relying to a large extent upon arguments that the business arrangement is efficiency-enhancing, ultimately benefiting consumers.1 2 However, aspects of the standard franchising business model still outstrip the now-permissive vertical restraints cases, and reveal tensions in the reigning consumer welfare standard. Overall, by confining antitrust-immunized control relations largely to the space within the firm-and to a few more democratic arrangements outside the firm-mid-century antitrust had historically placed some limits on the unreciprocal control exerted by franchisors over franchisees. Mid-century antitrust took a dim view of control imposed through vertical, contractual restraints, for example by franchisors upon franchisees. Importantly, this view was motivated more by a norm of non-domination than by an idea of realizing ideal competitive prices, or of attaining the lowest possible consumer prices.13 The Borkian turn in antitrust law that took hold in the 1970s worked to remove these limits on vertical restraints.14 By doing so, it demonstrated that its fundamental preference for allocating coordination rights is not only within firms, but also by large, powerful firms (at least so long as that coordination too is in the form of control over less-powerful actors). Around the same period, the Borkian turn expanded antitrust law's concept of the firm itself, to capture parent-subsidiary relationships and other corporate groups, and thus extended antitrust immunity to any coordination between separate corporations within these relationships." The single entity doctrine, as it is called, expressly inscribes the preference for economic coordination in the form of control, preferably grounded in concentrated ownership interests." Franchisors have used and relied upon both of these changes in antitrust law to justify their control over franchisees and at times, franchisees' employees. Fast-food franchisors coordinate their franchising families various ways. They exert control over key elements of franchisees' supply, labor, and product decisions. Notably, they even exert control over the prices of the products sold by franchisee firms, typically in the direction of driving them down. One McDonald's franchisee noted that "participation in deals and pricing is voluntary only in theory," and that on an occasion when its coffee price was a nickel over the franchisor-advertised sale price, "the head of the McDonald's region came in and he said: 'You are over. You can't do this."'17 Some other franchisors even more straightforwardly set the prices charged by franchisee firms; for example, janitorial franchisors often directly bargain contracts with customers on franchisees' behalf."s Burger King, like McDonald's, exerts the same downward pressure on its franchisees' prices through its "Value Menu."19 Franchisors have also placed limits upon worker mobility within franchise "families" through so-called no-poaching provisions placed into franchisee contracts. In the past, franchisors have successfully claimed immunity for these controls under Copperweld, or the single entity doctrine, thereby claiming that franchisees are effectively extensions of the franchisor itself.20 Such provisions have recently come in for new criticism, and have been challenged by workers in a number of pending cases. 21 In the current disputes, some franchisors have again raised the single entity defense, but thus far a judge has not ratified it. To expressly ratify this theory would be to make explicit the selective application of firm status to franchise "families" as between antitrust and labor law. Franchisees themselves are denied coordination rights by antitrust law,22 further cementing franchisors' power. Meanwhile, franchisees' employees' fight for coordination rights, for example in the form of unionization, has also been frustrated by franchisors' position that they are completely separate from franchisees, which would require workers to separately unionize numerous small franchisees. In short, franchisors have thus far been permitted to disclaim affiliation with franchisee firms altogether under labor law, even as they frequently claim that franchisees are extensions of the firm under antitrust, in both cases cementing their exclusive coordination rights in the overall arrangement. The pending no-poach cases also illustrate the operation of the law of vertical restraints and franchisors' attempts to stretch its limits. To see this, note first that even franchisors' control over franchisee product pricing decisions ought to be uncertain territory. As noted, franchisors exert control over consumer prices charged by franchisees, in addition to aspects of their dealings with suppliers and workers. Even under the existing law's profound preference for vertical control over horizontal coordination, franchisors' control over franchisee pricing-which in turn has direct, negative implications for franchisees' labor relationships and workers' wages 2 3-does not obviously fit within the parameters of legal vertical restraints. The paradigm cases, from GTE Sylvania (geographic market allocation) to Khan (maximum prices) to Leegin (minimum prices), all deal with re-sale of a product sold by the actor seeking to impose the restraint. Franchisors do not sell hamburgers to franchisees, who then re-sell them. This problem is not necessarily resolved by extending the principles of these cases to intangible property-such as the franchise brand-which are covered.24 There is, in any event, no credible argument for extending these precedents to labor-facing restraints imposed by franchisors upon franchisees. Franchisors do not hire out workers to franchisees. No proprietary technology licensed by franchisors to franchisees is implicated in those relationships. Yet the Department of Justice chose to file a brief in these pending cases effectively supporting franchisors' position and suggesting that no-poach agreements limiting mobility among some of the lowest-wage, most vulnerable workers have legally cognizable benefits.25 This is notable in part because it dramatizes the tensions in antitrust law's current governing normative framework. The DOJ brief purports to treat labor market restraints symmetrically with product market restraints. But this is belied by their own arguments about the putative countervailing efficiencies of no-poach agreements, which are framed purely in terms of consumer benefits, namely lower prices. This points up a basic tension within the existing legal framework, which simultaneously claims to treat worker welfare equally with consumer welfare, but which only admits evidence of countervailing benefits to consumers, primarily price benefits, when evaluating forms of permitted coordination. In short, the DOJ's briefs supporting franchisors' position in the pending cases brought by fast food workers to invalidate employee no-poach agreements imposed by franchisors upon franchisees stretch existing tendencies in the law to favor control by powerful firms, which is presumed to confer consumer benefits. In effect, the DOJ's brief seeks to enshrine in the official, surface grammar of the law what has heretofore been only a tacit expansion at the level of its deeper grammar, where the firm exemption partially resides. That tacit expansion of the borders of the firm exemption has been achieved through decades of creating facts on the ground by naturalizing franchisors' business model, and through economic arguments that these arrangements are efficiency-enhancing because of lower consumer prices.

#### We should allocate coordination rights on the basis of power rather than efficiency.

Sanjukta **PAUL** Law @ Wayne State **’19** “Fissuring and the Firm Exemption” *Law and Contemporary Problems* 82:65 p. 85-87

TOWARD A RE-ALLOCATION OF COORDINATION RIGHTS

Contemporary fissured business arrangements distill the preference for topdown, hierarchical control of smaller players by more powerful firms that is already present in today’s antitrust framework, while often pushing beyond the boundaries set by the current expression of that framework in the surface structure of the law. They call out for a re-allocation of coordination rights under antitrust law. What criteria are available to effect this re-allocation, and on what basis should it be achieved? Our current framework recognizes one other relevant source of coordination rights, beyond the firm, and that of course is based in labor law. The labor exemption to antitrust essentially permits economic coordination that antitrust would otherwise condemn where individuals engaged in the performance of labor or services are sufficiently subject to the power and control of a firm, and lack significant power and control—including relevant ownership rights—of their own.75 From this perspective, the labor exemption has always—or at least, long— been a limited qualification of the firm exemption, and it has been in a basic way dependent upon it. The limited qualification represented by the labor exemption is underlined by the fact that the collective power of labor—even if it were fully realized—cannot legally be brought to bear to contest basic firm or capital decisions, an outcome that Karl Klare and others have shown was not intrinsic to the Wagner Act itself, but was instead imposed by a contingent turn in the decisional law.76 Given this basic derivative relationship of the labor exemption to the firm exemption, it is then no wonder that the superficial undoing of the firm has further undone the labor exemption. How might we conceive of a new allocation of economic coordination rights that would avoid some of these problems, which have undermined the New Deal order almost beyond recognition? Attempts to broaden the labor exemption or to create new worker exemptions while retaining or copying its basic structure are unlikely to be sufficient. Fissured business structures show that the firm, which was never a platonic ideal to start with, will continue to change and mutate—partly of course in response to the law’s own allocation of coordination rights. Imagine if all workers or individual service-providers currently classified as independent contractors gained coordination rights. What would stop many firms who currently use independent contractors from moving to a system of contracting with, say, two to three person “firms” of workers—firms that are conveniently incorporated by signing ready-made forms in the company’s office upon hiring? These groups of workers would of course lack coordination rights in their bargaining with the firm that retains their services, and their intra-firm coordination rights would be negligible. The law should not allocate coordination rights to working people on the condition of particular business structuring decisions made by others. But such decisions are the inevitable response to smallbore redefinitions of the labor exemption, as fissuring itself teaches us. Instead, we might consider allocating coordination rights on the basis of power and social benefit. Importantly, to guide the application of these concepts, we must first discard the ideal-state competitive order as the default normative framework for antitrust and for economic regulation more generally. This is not to say that competition as a social process, referring to healthy business rivalry, is not important to antitrust law: it is, and ought to be balanced with appropriate and socially beneficial coordination. However, once we realize that the ideal state concept of competition that is currently presumed to form the basis for antitrust law is contributing very little—except as a smokescreen for other normative choices—then we need no longer view economic coordination as a special exception to the order of things. Thus, we need not look for conditions of deprivation, or powerlessness, as constituting the sole basis—aside from the firm exemption—for the appropriate exercise of coordination rights because they are an exception to an otherwise perfect order. That is what our current framework does, and it is also the assumption on which even the most ambitious reform proposals proceed.77 Instead, once coordination is no longer a special exception to the ideal-state competitive order, we may think of allocating coordination rights not only in order to contest existing power over someone—in other words, to contest conditions of domination—but more broadly and positively, to allocate coordination rights in order to confer a social benefit and so long as the coordination does not result in power over someone else. In this vision, power would be a constraint upon coordination rather than the criterion of its permission. So, truck drivers would be able to engage in direct price coordination among each other, so long as that coordination did not result in the undue exercise of power over some other group of people: other truck drivers or customers, for example.78 They would not have to show that someone else has power over them—whether through prices, or something else—in order to engage in coordination. Indeed, within such a framework, each of the groups discussed in Part II—franchisees, Uber drivers, and independent contractors— would quite plainly be allocated coordination rights. The precise scope of those rights should be determined in order to ensure that undue power over other groups does not result. Moreover, the availability of those rights would largely not depend upon unilateral decisions made by the lead firms in any of these arrangements in defining their relationships with workers, franchisees, or others in their orbit. Thus, small players’ coordination rights would be more secure than those allocated by a broadened labor exemption or other new exemption. Conversely, on this alternative approach to the allocation of coordination rights, antitrust law would not permit powerful firms like Uber and McDonald’s to exert control over small, less-powerful players like drivers and franchisees. However, rather than prohibiting this coordination on the ground that it facilitates horizontal coordination that is presumptively bad, antitrust law ought to take the view that it is impermissible because it unduly exacerbates power imbalances and domination, and confers no social benefit that would not be better realized through more democratic forms of coordination. In both directions, a conscious re-allocation of coordination rights would work toward balancing undue asymmetries of power rather than exacerbating them, as the current antitrust framework does, particularly in the context of fissured business arrangements. In order to do so, it would also recognize that the current framework makes normative choices about allocating coordination rights that cannot be derived from putatively neutral principles supplied by the competitive ideal.

#### Developing a new legal imaginary that center issues of power is necessary to displace the institutional and ideological power of the law and economics synthesis. A positive program helps us link together different areas of power inequalities in the law.

Jedidiah **BRITTON-PURDY** Law @ Columbia ET AL ‘**20** (Additional Authors David Singh Grewal, Amy Kapczynski & Sabeel Rahman) “Building a Law-and-Political Economy Framework: Beyond the Twentieth-Century Synthesis”, 129 YALE L. J. 1784 (2020) p.1831-1835

In synthesizing these last two points, we might say that two criteria define a properly democratic political economy. First, the political community must be able to assert its collective will over the economic order, not be blocked from doing so by the antipolitics of efficiency-focused adjudication or technocracy. Second, the substance of economic life must support democratic self-rule by ensuring substantial equality, freedom from abjection and dependence, a workplace experience of dignity and self-assertion rather than vulnerability and humiliation, and the capacity to build power through institutions such as unions. A democratic political economy must be answerable to its citizens' rule, and it must produce citizens capable of ruling it.

Third, a commitment to democracy demands that we experiment with alternatives to the prevailing technologies of elite governance, particularly in the regulatory state itself. Instead of viewing state bureaucracy as a domain of apolitical expertise (or of malevolent capture and corruption), we might reconceive regulatory bodies as sites of democratic contestation.162 If purportedly neutral and technocratic visions for rationalizing governance are neither neutral nor, in practice, rationalizing, we need new conceptions of how to democratically discipline administrative decisions. What would processes of administrative accountability look like if they were wise to dynamics of power and animated by a commitment to more genuine equality? There is a dynamic scholarly agenda here, already under construction. We might explore, for example, means to bring representatives of affected communities to participate in administrative decision-making, aiming at modalities of democratic voice that could meet our needs for both (a broadened conception) of expertise and for institutionalized forms of countervailing power.163 There is a rich history of social movements engaging and seeking to remake the regulatory state in a more inclusive, but still effective, way.164 A democratic political economy compels us to revisit and build on this tradition. Like many of the cases we have advanced here, the substance of these arguments lies in political morality. A democratic political economy is a moral project, aimed at taking with full seriousness the equality of persons and our capacity to set for ourselves the terms of our collective lives, to decide how to deal out power and vulnerability, to figure out how to live together - and to defend these decisions to one another. When we follow Karl Polanyi in speaking of an economy "embedded" in society,165 we mean not just that economic ordering is always derived from legal ordering but also that an economy's ordering of power and vulnerability always bespeaks a moral vision of persons, whether egalitarian and generous or hierarchical and cramped.

Thus, scholarship should consider what moral images of social and political order are implied in a given legal patterning. What image of economic citizenship, or of a democratic economy, is embedded in a Brandeisian antitrust regime or in a labor law that assumes workers are involved in governing the workplace? In what ways is democracy or political membership hollowed out when replaced by the increasingly libertarian and wealth-maximizing premises of the Synthesis? Do "private-law" regimes here constitute citizens as market subjects who could demand a different kind of equality in these domains? What is revealed about the racialization of political membership by racial patterns of property ownership and loss, about gendered citizenship by the ways that the burdens of social reproduction interact with the wage bargain?166 Once the legal constitution of the economy is taken to be centrally about the production and enforcement of inequality, these questions present themselves naturally.

CONCLUSION

The Twentieth-Century Synthesis was a successful remaking of the legal imagination, creating a neoliberal political economy premised on concepts of efficiency, neutrality, and antipolitics. But even as this was a successful intellectual shift, manifesting in a wide range of scholarly discourses, doctrinal areas, and policy changes, it has always been a fragile configuration. As the contradictions of an increasingly unequal political economy have become painfully visible and exacerbated, the veneer of consensus around this Synthesis has fallen away. Thus, we find ourselves in a moment of political crisis and accompanying intellectual upheaval: an old order of political economy and its legitimating concepts are crumbling, but a new order has yet to emerge. The outlines of the battle for a new order have come into focus. The populisms of the far right, resurgent across the globe, point to one dark path coming out of this moment: the resurgence of reactionary political economy that marries anger at economic and political corruption with exclusionary attachment to racialized and gendered hierarchy. At the same time, centrist calls for a restoration of an imagined pre-2016 consensus on norms of good governance ignore the deeper causes of neoliberalism's crisis. But in contrast to both of these visions, the account offered here points to the beginnings of a very different, more deeply democratic and progressive political economy.

To embrace the possibility of democratic renewal requires rejecting the terms of the Twentieth-Century Synthesis. We believe that the legal realists-and thinkers in a much longer history of political thought-were right in believing that "the economy" is neither self-defining nor self-justifying. The emphasis in these traditions has been the right one: on power, distribution, and the need for legitimacy as the central themes in the organization of economic life. Moreover, precisely because economic ordering is a political and legal artifact, the idea of an "autonomous" economic domain has always been obscurantist and ideological, even when accepted in good faith. 167

Law does not and never could simply defer to such a realm. Rather, law is perennially involved in creating and enforcing the terms of economic ordering, most particularly through the creation and maintenance of markets. One of its most important roles, indeed, is determining who is subject to market ordering and on what terms and who is exempted in favor of other kinds of protection or provision. 168 Thus the program of law, politics, and institution building often called "neoliberalism" is, and can only be, a specific theory of how to use state power, to what ends, and for whose benefit. 169 The ideological work of the Twentieth-Century Synthesis has been to naturalize and embed in legal institutions from the Supreme Court to the Antitrust Office and World Trade Organization a specific disposition of power**.** This power represents a deployment of market ordering that produces intense and cross-cutting forms of inequality and democratic erosion. However, Twentieth-Century Synthesis theorists tend not to see this, precisely because the Synthesis makes it so hard to see (or at least so easy to overlook).

If it is to succeed, law and political economy will also require something beyond mere critique. It will require a positive agenda. Many new and energized voices, from the legal academy to political candidates to movement activists, are already building in this direction,170 calling for and giving shape to programs for more genuine democracy that also takes seriously questions of economic power and racial subordination;1 7 1 more equal distribution of resources and life chances;172 more public and shared resources and infrastructures; 73 the displacement of concentrated corporate power and rooting of new forms of worker power;174 the end of mass incarceration and broader contestation of the long history of the criminalization and control of poor people and people of color in building capitalism; 175 the recognition of finance and money as public infrastructures; 176 the challenges posed by emerging forms of power and control arising from new technologies;177 and the need for a radical new emphasis on ecology. 178 These are the materials from which a positive agenda, over time, will be built.

Political fights interact generatively with scholarly and policy debates in pointing the way toward a more democratic political economy. The emergence of new grassroots movements, campaigns, and proposals seeking to deepen our democracy is no guarantee of success. But their prevalence and influence make clear the dangers and opportunities of this moment of upheaval- and highlight the stakes of building a new legal imaginary.1 7 9 Neoliberal political economy, with its underlying commitments to efficiency, neutrality, and antipolitics, helped animate, shape, and legitimate a twentieth-century consensus that erased power, encased the market, and reinscribed racialized, economic, and gendered inequities. By contrast, a legal imaginary of democratic political economy, that takes seriously underlying concepts of power, equality, and democracy, can inform a wave of legal thought whose critique and policy imagination can amplify and accelerate these movements for structural reform- and, if we are lucky, help remake our polity in more deeply democratic ways. 175.

#### Breaking down concentrations of economic power key to defeat racial capitalism. Changing the political-economic framework for capital and labor is race-conscious, not liberal colorblindness. The power of big business and the Chicago school consolidated racist effects of capitalism.

K. Sabeel **RAHMAN** Law @ Brooklyn Schmidt Family Fellow, New America, Four Freedoms Fellow, Roosevelt Institute **’20** “Dismantle Racial Capitalism” *Dissent* 67 (3) p. 108-11

This system of racial capitalism is a result of policy choices that structure our political economy. Modern systems of precarious work are rooted in histories of extractive labor models, from Jim Crow to undocumented immigrant labor. Many black and brown workers were cut out of the twentieth-century New Deal social contract. Zoning policies have deliberately concentrated poverty and pollution—and therefore poor health—in black and brown neighborhoods while securing economic gains and class advantage for wealthier and whiter communities. The rise of predatory systems of student and consumer debt paper over the erosion of the safety net and fuel returns for financial interests. The racialization of [End Page 109] public goods, from healthcare to welfare to food stamps, has helped drive austerity and the dismantling of the safety net.

These policies are sustained by a set of interests and ideologies. Businesses directly benefit from these extractive economic models. But so too do middle- and upper-class constituencies. An alliance between big business, those hostile to racial integration and the civil rights movement, and anxious and self-interested affluent elites is at the heart of the modern conservative coalition. These political arrangements are legitimated by market fundamentalism and color-blind notions of fairness and neutrality that obfuscate the deep unfreedom and racial hierarchy of our economic system.

The COVID-19 crisis exposes the harsh reality of this system. It might also animate a more equitable and inclusive reimagining of our political economy. We need to direct our political energies toward the liberation of black and brown people—and in so doing, secure the liberation for all of us from the inequities of modern capitalism.

Right now, there are four key fights that could shift the balance of power in economic life.

First, we need to dismantle the concentrations of private power that dominate and effectively govern our economy for their own benefit. This means taking on megafirms and monopolies like Amazon and the world of high finance—sectors that will exercise even more control over the allocation of goods, services, jobs, and investment in the post-COVID-19 era. We need a reimagined anti-monopoly policy agenda that encompasses everything from breaking up large corporations to public utility regulations for privately run infrastructures like retail platforms and the financial services that mediate access to basic credit.

Second, we need to build on this moment of labor mobilization—there have been hundreds of strikes during the pandemic—to advocate for workplace democracy, including a voice for workers on corporate boards and sectoral bargaining to set wages and labor standards.

Third, we need to reinvest in public goods and the public provision of basic necessities in everything from healthcare to child care to an expanded safety net. This also means rescuing the U.S. Postal Service, pursuing public banking, and restoring investments in (and accountability for) utilities charged with providing water, electricity, and other critical services. A commitment to genuinely inclusive public provision also requires enforcing equitable access, undoing exclusionary models of zoning and means-testing that work to limit who receives high-quality public goods.

Fourth, these policies need to be backed by a commitment to inclusive political power. We cannot achieve or sustain a liberatory economic democracy without real political democracy. We have to undo racist systems of voter suppression, and we need working-class people to have [End Page 110] more direct control and leverage over administrative governance itself, from the local zoning board to the heights of the Federal Reserve.

The COVID-19 crisis has accentuated our existing systems of extraction and exclusion, which already put millions of Americans in physical and economic danger. By dismantling those underlying structures, we can create a political economy premised not on the inequities of racial capitalism, but on democracy. [End Page 111]

## Case

### 1NC – AT: Case

#### “Call out culture” is bad – their K replicates violent criminology and divides progressive movements.

Ahmad ’15 [Asam; Toronto-based writer who still has a hard time trusting words. He coordinates the It Gets Fatter Project, a body positivity group started by fat queer people of colour. 3-2-15 http://briarpatchmagazine.com/articles/view/a-note-on-call-out-culture]

Call-out culture refers to the tendency among progressives, radicals, activists, and community organizers to publicly name instances or patterns of oppressive behaviour and language use by others. People can be called out for statements and actions that are sexist, racist, ableist, and the list goes on. Because call-outs tend to be public, they can enable a particularly armchair and academic brand of activism: one in which the act of calling out is seen as an end in itself. What makes call-out culture so toxic is not necessarily its frequency so much as the nature and performance of the call-out itself. Especially in online venues like Twitter and Facebook, calling someone out isn’t just a private interaction between two individuals: it’s a public performance where people can demonstrate their wit or how pure their politics are. Indeed, sometimes it can feel like the performance itself is more significant than the content of the call-out. This is why “calling in” has been proposed as an alternative to calling out: calling in means speaking privately with an individual who has done some wrong, in order to address the behaviour without making a spectacle of the address itself. In the context of call-out culture, it is easy to forget that the individual we are calling out is a human being, and that different human beings in different social locations will be receptive to different strategies for learning and growing. For instance, most call-outs I have witnessed immediately render anyone who has committed a perceived wrong as an outsider to the community. One action becomes a reason to pass judgment on someone’s entire being, as if there is no difference between a community member or friend and a random stranger walking down the street (who is of course also someone’s friend). Call-out culture can end up mirroring what the prison industrial complex teaches us about crime and punishment: to banish and dispose of individuals rather than to engage with them as people with complicated stories and histories. It isn’t an exaggeration to say that there is a mild totalitarian undercurrent not just in call-out culture but also in how progressive communities police and define the bounds of who’s in and who’s out. More often than not, this boundary is constructed through the use of appropriate language and terminology – a language and terminology that are forever shifting and almost impossible to keep up with. In such a context, it is impossible not to fail at least some of the time. And what happens when someone has mastered proficiency in languages of accountability and then learned to justify all of their actions by falling back on that language? How do we hold people to account who are experts at using anti-oppressive language to justify oppressive behaviour? We don’t have a word to describe this kind of perverse exercise of power, despite the fact that it occurs on an almost daily basis in progressive circles. Perhaps we could call it anti-oppressivism. Humour often plays a role in call-out culture and by drawing attention to this I am not saying that wit has no place in undermining oppression; humour can be one of the most useful tools available to oppressed people. But when people are reduced to their identities of privilege (as white, cisgender, male, etc.) and mocked as such, it means we’re treating each other as if our individual social locations stand in for the total systems those parts of our identities represent. Individuals become synonymous with systems of oppression, and this can turn systemic analysis into moral judgment. Too often, when it comes to being called out, narrow definitions of a person’s identity count for everything. No matter the wrong we are naming, there are ways to call people out that do not reduce individuals to agents of social advantage. There are ways of calling people out that are compassionate and creative, and that recognize the whole individual instead of viewing them simply as representations of the systems from which they benefit. Paying attention to these other contexts will mean refusing to unleash all of our very real trauma onto the psyches of those we imagine represent the systems that oppress us. Given the nature of online social networks, call-outs are not going away any time soon. But reminding ourselves of what a call-out is meant to accomplish will go a long way toward creating the kinds of substantial, material changes in people’s behaviour – and in community dynamics – that we envision and need.

#### Call outs are counterproductive – sanitize structure, promote carceral logic, destroy coalitions- call in superior alternative.

Ross, PhD Candidate, 19

(Loretta, https://www.nytimes.com/2019/08/17/opinion/sunday/cancel-culture-call-out.html?smid=nytcore-ios-share&fbclid=IwAR34pBpZoP1yZ8\_zNlbKgEniS\_B6yyU4O-wx-74OxMvRzXhgYwFCQ9zofq0, 8-17)

Today’s call-out culture is so seductive, I often have to resist the overwhelming temptation to clap back at people on social media who get on my nerves. Call-outs happen when people publicly shame each other online, at the office, in classrooms or anywhere humans have beef with one another. But I believe there are better ways of doing social justice work. Recently, someone lied about me on social media and I decided not to reply. “Never wrestle with a pig,” as George Bernard Shaw said. “You both get dirty, and besides, the pig likes it.” And one of the best ways to make a point is to ignore someone begging for attention. Thanks, Michelle Obama, for this timely lesson; most people who read her book “Becoming” probably missed that she subtly threw shade this way. Call-outs are often louder and more vicious on the internet, amplified by the “clicktivist” culture that provides anonymity for awful behavior. Even incidents that occur in real life, like Barbeque Becky or Permit Patty, can end up as an admonitory meme on social media. Social media offers new ways to be the same old humans by virally exposing what has always been in our hearts, good or bad. My experiences with call-outs began in the 1970s as a young black feminist activist. I sharply criticized white women for not understanding women of color. I called them out while trying to explain intersectionality and white supremacy. I rarely questioned whether the way I addressed their white privilege was actually counterproductive. They barely understood what it meant to be white women in the system of white supremacy. Was it realistic to expect them to comprehend the experiences of black women? Fifty years ago, black activists didn’t have the internet, but rather gossip, stubbornness and youthful hubris. We believed we could change the world and that the most powerful people were afraid of us. Efforts like the F.B.I.’s COINTELPRO projects created a lot of discord. Often, the most effective activists were killed or imprisoned, but it nearly always started with discrediting them through a call-out attack. I, too, have been called out, usually for a prejudice I had against someone, or for using insensitive language that didn’t keep up with rapidly changing conventions. That’s part of everyone’s learning curve but I still felt hurt, embarrassed and defensive. Fortunately, patient elders helped me grow through my discomfort and appreciate that context, intentions and nuances matter. Colleagues helped me understand that I experienced things through my trauma. There was a difference between what I felt was true and what were facts. This ain’t easy and it ain’t over — even as an elder now myself. But I wonder if contemporary social movements have absorbed the most useful lessons from the past about how to hold each other accountable while doing extremely difficult and risky social justice work. Can we avoid individualizing oppression and not use the movement as our personal therapy space? Thus, even as an incest and hate crime survivor, I have to recognize that not every flirtatious man is a potential rapist, nor every racially challenged white person is a Trump supporter. We’re a polarized country, divided by white supremacy, patriarchy, racism against immigrants and increasingly vitriolic ways to disrespect one another. Are we evolving or devolving in our ability to handle conflicts? Frankly, I expect people of all political persuasions to call me out — productively and unproductively — for my critique of this culture. It’s not a partisan issue. The heart of the matter is, there is a much more effective way to build social justice movements. They happen in person, in real life. Of course so many brilliant and effective social justice activists know this already. “People don’t understand that organizing isn’t going online and cussing people out or going to a protest and calling something out,” Patrisse Khan-Cullors, a founder of the Black Lives Matter movement, wrote in “How We Fight White Supremacy,” For example, when I worked to deprogram incarcerated rapists in the 1970s, I told the story of my own sexual assaults. It opened the floodgates for theirs. They were candid about having raped women, admitted having done it to men or revealed being raped themselves. As part of our work together, they formed Prisoners Against Rape, the country’s first anti-sexual assault program led by men. I believe #MeToo survivors can more effectively address sexual abuse without resorting to the punishment and exile that mirror the prison industrial complex. Nor should we use social media to rush to judgment in a courtroom composed of clicks. If we do, we run into the paradox Audre Lorde warned us about when she said that “the master’s tools will never dismantle the master’s house.” We can build restorative justice processes to hold the stories of the accusers and the accused, and work together to ascertain harm and achieve justice without seeing anyone as disposable people and violating their human rights or right to due process. And if feminists were able to listen to convicted rapists in the 1970s, we can seek innovative and restorative methods for accused people today. That also applies to people fighting white supremacy. On a mountaintop in rural Tennessee in 1992, a group of women whose partners were in the Ku Klux Klan asked me to provide anti-racist training to help keep their children out of the group. All day they called me a “well-spoken colored girl” and inappropriately asked that I sing Negro spirituals. I naïvely thought at the time that all white people were way beyond those types of insulting anachronisms. Instead of reacting, I responded. I couldn’t let my hurt feelings sabotage my agenda. I listened to how they joined the white supremacist movement. I told them how I felt when I was 8 and my best friend called me “nigger,” the first time I had heard that word. The women and I made progress. I did not receive reports about further outbreaks of racist violence from that area for my remaining years monitoring hate groups. These types of experiences cause me to wonder whether today’s call-out culture unifies or splinters social justice work, because it’s not advancing us, either with allies or opponents. Similarly problematic is the “cancel culture,” where people attempt to expunge anyone with whom they do not perfectly agree, rather than remain focused on those who profit from discrimination and injustice. Call-outs are justified to challenge provocateurs who deliberately hurt others, or for powerful people beyond our reach. Effectively criticizing such people is an important tactic for achieving justice. But most public shaming is horizontal and done by those who believe they have greater integrity or more sophisticated analyses. They become the self-appointed guardians of political purity. Call-outs make people fearful of being targeted. People avoid meaningful conversations when hypervigilant perfectionists point out apparent mistakes, feeding the cannibalistic maw of the cancel culture. Shaming people for when they “woke up” presupposes rigid political standards for acceptable discourse and enlists others to pile on. Sometimes it’s just ruthless hazing. We can change this culture. Calling-in is simply a call-out done with love. Some corrections can be made privately. Others will necessarily be public, but done with respect. It is not tone policing, protecting white fragility or covering up abuse. It helps avoid the weaponization of suffering that prevents constructive healing. Calling-in engages in debates with words and actions of healing and restoration, and without the self-indulgence of drama. And we can make productive choices about the terms of the debate: Conflicts about coalition-building, supporting candidates or policies are a routine and desirable feature of a pluralistic democracy. You may never meet a member of the Klan or actively teach incarcerated people, but everyone can sit down with people they don’t agree with to work toward solutions to common problems. In 2017, as a college professor in Massachusetts, I accidentally misgendered a student of mine during a lecture. I froze in shame, expecting to be blasted. Instead, my student said, “That’s all right; I misgender myself sometimes.” We need more of this kind of grace.

#### Their link is a demand for purity – lack of privilege and presence of oppression makes this hardest for the most marginalized. Call out culture replicates conservative religious doctrine and causes self-policing.

Cross, PhD candidate, 14

(Katherine, Sociology@CUNY, Words, Words, Words: On Toxicity and Abuse in Online Activism https://quinnae.com/2014/01/03/words-words-words-on-toxicity-and-abuse-in-online-activism/)

The wages of rage in our communities, and the often aimless, unchecked anger striking both within and without have created a climate of toxicity and fear that not only undermine our highest ideals, but also corrode the comforts of community for the very people who most need it. One of the most leaden wages of that culture of rage is, indeed, fear. I have been praised for my voice by many in this community and called “brave” by more people than I can name, count, or thank; and yet sitting in my My Documents folder is a number of articles, some finished, others not, that are “on ice.” When I mention the icebox of unpublished posts and articles to friends and colleagues, I do so with a forced smile, pretending that it’s a heady combination of academic perfectionism and fear of being attacked by bigots that leads me to suppress them. There is more than a grain of truth to this. As many of my friends, loved ones, and sisters in struggle have demonstrated and written about, there is a lot to fear from the 4chan-esque world of angry young men with ample resentment towards those of us they perceive to be purloining some birthright of theirs. My academic work is devoted, in no small measure to explaining their behaviour (more on this in a bit). But I am lying when I say they are the sole source of my hesitation. The rest, often as not even the lion’s share, comes from fear of something with the power to cut even deeper– my own community. I fear being cast suddenly as one of the “bad guys” for being insufficiently radical, too nuanced or too forgiving, or for simply writing something whose offensive dimensions would be unknown to me at the time of publication. In other words, for making an innocently ignorant mistake. An image of a dark haired and light skinned woman, eyes closed with two fingers pressed to her temple as she is surrounded by a number of holographic images. Woman’s place is on the internet– and it’s our responsibility to make it safe for each other. (Artwork from Eclipse Phase by Tariq Hassan used under Creative Commons). The Tumblr-isation of Activism I have feared stumbling over the Tumblr trip wire and falling into the abyss of “call-out culture” to be discredited with every slur and slander in the book by the people who I ought to be able to trust the most. This stays my author’s hand as much as anxiety about being attacked by, say, the same crowd that bedevils Anita Sarkeesian. I fear the moment I get tarred as a “collaborator,” “apologist” for privilege, or a “sell out” (to women, to Latin@s, to working class people, to trans folk). Equally troubling is the fear of my loved ones being caught in the mammoth whirlpool of Twitter/Tumblr Justice and tarred for their association with me. Fear of this sends me, yearning, into the oblivious embrace of silence. I have written about this in the past, obliquely, and spoken in either couched or very specific terms about my feelings on this matter, which have haunted my thoughts for some time. So much online social justice activism has become hyper-vigilant against sin, great or small, past or present. That sense, that even the smallest, meanest revelation of past transgressions would come back to haunt me, inspired this paragraph in an old article I wrote about the painful contradictions of feminist activism: “The pressure for me has always been to aspire to that feminist Madonnahood, and the perfection this demands is rigorous indeed. There is a strangely Catholic quality to the demand I often hear to show my scars, to prove I am a woman by showing how I have been hurt, to prove that patriarchy can wound me by showing how it has. For there is something very odd about what the perfection my activism and my internalised sense of morality has demanded of me. It is not only that I show my scars but that I, paradoxically, testify to my permanent perfection from birth. In this world where patriarchy has scratched, burned, and tortured me- and where proving this martyrdom is a requirement of feminist perfection- I must also somehow be unblemished by patriarchy.” I stand by this, but I deliberately left enough spaces for readers to assume that I was speaking about white cis middle class feminism, the dreaded “mainstream” variety that it was more acceptable to criticise. I was, but I was also speaking about the wider activist enterprise upon which many of us are embarked. This includes the world of online social justice activism, trans politics–indeed, the radical left as a whole. We must paradoxically be “oppressed” and yet bear none of the markings of that oppression upon our consciousness; we can never bear baggage or scars; as people of colour we can never show our veil of double consciousness, per W.E.B DuBois. It feels, sometimes, as if we must arrive fully formed to the world of activism, the perfect agents of change, somehow entirely cognisant of the ever shifting morass of rules and prescribed or proscribed words, phrases, argot, and thought. But this also presumes that there is some kind of Platonic perfection to which we must unproblematically aspire. There is the lingering but important question of disagreement; identity does not fully contain humanity, and there are many of us who are women, and/or trans, and/or people of colour who have good faith arguments against dominant strategic paradigms, or dominant cultures, norms, and rules. Time and again, I speak to people of my background in the whisper filled shadows of corners and corridors, quietly fretting about “getting it wrong” or being accused of collaboration or being a sell-out for voicing such criticisms. Even when such whispers have the audacity to become a loud conversation (behind locked doors) they rarely grow into public debates– too many of us fear we’re alone.

#### General political and ethical principles don’t provide any guide for action.

Michael **FREEDEN** Politics & Int’l Studies @ SOAS Univ. of London **’13** *The Political Theory of Political Thinking: the Anatomy of a Practice* p. 6-9

2. Paths not taken

An immediate consequence of the view of thinking politically advocated in this volume is to abandon the selective specificity of three alternative views of the political, all of which identify a unique property claimed to characterize it, either approvingly or critically, and then draw a set of conclusions from what usually is a circumscribed stipulative attribution. The first is binary, in which the political binds a Thing and its Other in an irreconcilable and antagonistic relationship, as expressed in some varieties of feminist theory, or in inclusion/exclusion models such as friend/enemy. The second regards the political solely as the reasonable and constructive rejection or dismantling of such boundaries in the quest for human identity, whether individual or social. Its variants opt rather for movements across them, for syntheses, or for emphasizing the process of holding both difference, and its dignified acknowledgement, in some mutually recognizing balance such as agonism. The third portrays politics as displaying continual and revealing ruptures, and as a fundamentally pattern-less process of radically undermining the superimposed order of social life. All of those carry heavy normative baggage, assumptions about distortion and/or fantasy, and some commitment to egalitarianism and democracy, however vaguely conceived. And much as some of them disapprove of what analytic political philosophers are wont to practise, their predispositions either (p.7) coincide with the ethical tendencies of many such philosophers, or reflect the methodological essentialism of the analyst. Often both of these obtain. Those limiting approaches will be addressed in Chapter One.

A second consequence of ascending from micro-instances is to query the kind of political theory that descends from regulative macro-principles. It is common among political theorists and philosophers to propound the notion of a regulative principle as a normative attempt to offer political and ethical solutions that will stand the tests of time and space, perhaps even transcend them, or at least display considerable durability. Such principles are often offered as the most important contribution that can be made to the domain of political thought, and have lately been endorsed as aids to institutional design. For that reason I wish to dwell upon that approach a little longer in the following two paragraphs, because of the very different perspective on what political theory can attain that is adopted in this book.

Regulative principles exhibit remoteness from the actual manifestations of the political, with an attendant unrealizability and limited theoretical relevance, given the empirical proclivities of the social sciences. Unease with regulative principles in their actual application to political life was aptly expressed by the socialist thinker E. Belfort Bax:

We can define, that is, lay down, in the abstract, the general principles on which the society of the future will be based, but we cannot describe, that is, picture, in the concrete, any state of society of which the world has had no experience. For into the reality of a society, even in its broader details, there enters a large element of contingency, of alogicality, of unreason, with which no general principles will furnish us. In consequence of this, the detail, the reality, has to be supplied by the Utopian romancer, from states of society already realised in the past or the present.7

Bax’s diagnosis is convincing, though his utopian solution is not the route travelled here. It is, however, those philosophers who resort to ‘regulative principles’ in order to hold an argument together, and seemingly direct and apply it, who exhibit another kind of ‘utopian’ temper, quite ahistorical and nonempirical. They neglect to appreciate that in the final analysis what counts are the individuated instances of how (and if) the principle works at the minute level of thousands of different cases, not at the highest level of untested and, usually, inapplicable generality. Were the notion of a regulative principle simply to denote a framework of tramlines within which values, norms, and guidelines should be contained that would not pose a problem. But regulative principles are frequently employed as substantive benchmarks towards which all actual conduct and arrangements should strive.

(p.8) In that sense, regulative principles are amorphous, irregular, and incomplete in their application, to the point where they fail to deliver what their articulators intend them to deliver, unless they are merely intended to please philosophers—and ideologues. The constraints, the fragmentation, and the human messiness of political thinking itself cannot by their very nature permit that thinking to be elevated to the stratosphere of regulative principles, when the generalizations proffered by those regulatory attempts set standards that no concrete instances will ever meet. Arguably, in some cases they should not even meet those standards, in view of the multiplicity of cultural perspectives and contexts, where one regulatory size does not fit all. The alternative notion of merely approximating such standards panders to the illusion of bridgeability between regulative principle and effective institutional and personal practice, an illusion that imposes an impossible burden on the shoulders of political thinking and distances it from the reach of proper understanding. Feuerbach’s notion of God as alienated man is one example of an insight into such an illusion, proffering a yardstick intended to inspire people on, but having the opposite effect of demoralizing them in the face of the impossibility of the endeavour. That is not to argue that practices cannot be constantly improved but, as an alternative to cranking them up to an idealized level, we may instead start from their existing, or contextually possible, properties. But, ultimately and most tellingly, it is not enough to criticize regulative principles for failing to offer adequate guidelines to political practices. Rather, the criticism suggested here is that they deflect us from the richer nature of political thinking itself even as they themselves are, admittedly, one form of political thinking. The search for macro-regulative principles should not regulate or dominate what we consider to be the tasks of political theory, nor should their formulators assume that such principles can effectively get to grips with the multifarious world of political thought-practices. All that will be examined more fully in Chapter Seven.

#### 7. Presumption of black unity is ahistorical racial essentialism – stifling debate turns black politics into elite power brokering.

Cedric **JOHNSON** Poli Sci @ Hobart and William Smith Colleges **’17** “The Panthers Can’t Save Us Now” *Catalyst* 1 (1)

With some exceptions, the Movement for Black Lives more generally is guided by an understanding of political life that sees racial affinity as synonymous with constituency. This much is clear when the authors of the Vision agenda declare, “We have created this platform to articulate and support the ambitions and work of Black people. We also seek to intervene in the current political climate and assert a clear vision, particularly for those who claim to be our allies, of the world we want them to help us create.” This passage assumes a rather simplistic view of black people’s ambitions and interests and draws a false dividing line between the interests of blacks and non-blacks — “those who claim to be our allies.” clearly descendant from Black Power thinking, this statement presumes a commonality of interests among blacks and claims authority to speak on behalf of those interests with little sense of irony. Broad acceptance of the myth of a corporate black body politic authorizes the very elite brokerage dynamics that many younger activists dislike about established civil rights organizations.

Despite the insistence of some supporters that there is a progressive pro-working-class politics at the heart of Black Lives Matter activism, the rapture of “unapologetic blackness” and the ethnic politics that imbues various programmatic efforts will continue to lead away from the kind of cosmopolitan, popular political work that is needed to end the policing crisis. There are, of course, different ideological tendencies operating within the Movement for Black Lives: radical, progressive, bourgeois and reactionary. The spats between Black Lives Matter’s founders and those who sought to use the hashtag without their permission reflected a proprietary sensibility more suited to product branding and entrepreneurship than to popular social struggle. If the Gary Convention experience is the model here, then what we might expect is the fracturing of the Movement for Black Lives into different brokerage camps, each claiming to represent the “black community” more effectively than the other but none capable of amassing the counterpower necessary to have a lasting political impact.

Black Lives Matter co-founder Patrice Cullors gives a sense of this problem when she says that she will continue to work with black neoliberals because of their common racial affinity. “That I don’t agree with neoliberalism doesn’t encourage me to launch an online assault against those who do. We can, in fact, agree to disagree. We can have a healthy debate. We can show up for one another as Black folks inside of this movement in ways that don’t isolate, terrorize, and shame people — something I’ve experienced firsthand.”23 Cullors is right when she asserts that political work involves building bonds of trust and a willingness to respect different opinions. But such work is best undertaken outside the echo chambers of social media, which most often encourage irresponsible rhetoric, amplify identitarian assumptions, and suffocate public spiritedness. Cullors mistakes the core basis of political life, however. Sustained political work is held together by shared historical interests, especially those that connect to our daily lives and felt needs, not sentimental “ties of blood.”

Cullors and many other activists embrace the Black Power premise of the necessity of black unity, once expressed in phrases like “operational unity” and “unity without uniformity” and in familial metaphors about “not airing dirty laundry” and settling disputes “in-house.” The problem with this sentiment is that it reduces the divergent political interests animating black life at any given historical moment to happenstance, external manipulation, or superficial grievance. As well, this call for black unity is always underwritten by the fiction that other groups have advanced through the ethnic paradigm, a view that is patently ahistorical and neglects the role of interracial alliances in creating a more democratic, just society. This line of thinking always assumes that there is something underneath it all that binds black people together politically, but that reasoning must always rely on some notion of racial essentialism and a suspension of any honest analysis of black political life as it exists.

# 2NC

## T

### ! – Clash

#### Unflinching commitments ignore the complexity and partiality of any political theory. Promoting clash is key to interrogate complex issues, problematize solutions, and actualize any benefits of debate.

Tully ‘2 – Jackman Chari of Philosophical Studies at Toronto (James, Political Philosophy as Critical Activity, Political Theory 30 (4) p. 544-546)

Accordingly, understanding and clarifying political concepts, whether by citizens or philosophers, will always be a form of practical reasoning, of entering into and clarifying the ongoing exchange of reasons over the uses of our political vocabulary. It will not be the theoretical activity of abstracting from everyday use and making explicit the context-independent rules for the correct use of our concepts in every case, for the conditions of possibility for such a metacontextual political theory are not available. When political philosophers enter into political discussions and disputes to help clarify the language being used and the appropriate procedures for exchanging reasons, as well as to present reasons of their own, they are not doing anything different in kind from the citizens involved in the argumentation, as the picture of political reflection as a theoretical enterprise would lead us to believe. Political philosophy is rather the methodological extension and critical clarification of the already reflective and problematised character of historically situated practices of practical reasoning.'8 Thus, we can now see why the first step should be to start from the ways the concepts we take up are actually used in the practices in which the political difficulties arise. Here we 'bring words back from their metaphysical to their everyday use' to ensure that the work of philosophy starts from 'the rough ground' of struggles with and over words rather than from uncritically accepted forms of representation of them, which may result in 'merely tracing round the frame through which we look at' them. '9 On this view, contemporary political theories are approached, not as rival comprehensive and exclusive theories of the contested concepts, but as limited and often complementary accounts of the complex uses (senses) of the concepts in question and the corresponding aspects of the problematic practice to which these senses refer. They extend and clarify the practical exchange of reasons over the problematic practice of governance by citizens, putting forward a limited range of academic reasons, analogies, and examples for employing criteria in such-and-such a way, for showing why these considerations outweigh those of other theorists, and so on (often of course with the additional claim that these limited uses transcend practice and legis- late legitimate use). A theory clarifies one range of uses of the concepts in question and corresponding aspects of the practice of government and puts forward reasons for seeing this as decisive. Yet there is always the possibility of reasonable disagreement, of other theories bringing to attention other senses of the word and other aspects of the situation that any one theory unavoidably overlooks or downplays. Political theories are thus seen to offer conditional perspectives on the whole broad complex of languages, relations of power, forms of subjectivity, and practices of freedom to which they are addressed. None of these theories tells us the whole truth, yet each provides an aspect of the complex picture.20 This first form of survey enables readers (and authors) to understand critically both the problem and the proposed solutions. It enables us to see the reasons and redescriptions on the various sides; to grasp the contested criteria for their application, the circumstances in which they can be applied, and the considerations that justify their different applications, thereby passing freely from one sense of the concept to another and from one aspect of the practice to another; and to appreciate the partial and relative merits of each proposal. To have acquired the complex linguistic abilities to do this is literally to have come to understand critically the concepts in question. This enables us to enter into the discussions of the relative merits of the proposed solutions our- selves and present and defend our own views on the matter. To have mastered this dialogical technique is to have acquired the 'burdens of judgment' (in a broader sense than Rawls's use of this phrase is normally interpreted) or what Nietzsche called the ability to reason 'perspectivally'.21 This form of practical reasoning is also a descendent of the classical humanist view of political philosophy as a practical dialogue. Because it is always possible to invoke a reason and redescribe the accepted application of our political concepts (paradiastole), it is always necessary to learn to listen to the other side (audi alteram partem), to learn the conditional arguments that support the various sides (in utramque partem), and so to be prepared to enter into deliberations with others on how to negotiate an agreeable solution (negotium).22

### 2NC — AT: Creativity/Innovation

#### Limits and creativity aren’t mutually exclusive—working within structure promotes the best innovation—refusal of all limits is self-destructive because it kills creativity for the neg

Paul B ARMSTRONG Professor of English and Dean of the College of Arts and Sciences at the State University of New York at Stony Brook, **‘2K** [“The Politics of Play: The Social Implications of Iser's Aesthetic Theory,” *New Literary History*, 31.1, 2000, p. 211-223, Accessed Online through Emory Libraries]

Such a play-space also opposes the notion that the only alternative to the coerciveness of consensus must be to advocate the sublime powers of rule-breaking. 8 Iser shares Lyotard's concern that to privilege harmony and agreement in a world of heterogeneous language games is to limit their play and to inhibit semantic innovation and the creation of new games. Lyotard's endorsement of the "sublime"--the pursuit of the "unpresentable" by rebelling against restrictions, defying norms, and smashing the limits of existing paradigms--is undermined by contradictions, however, which Iser's explication of play recognizes and addresses. The paradox of the unpresentable, as Lyotard acknowledges, is that it can only be manifested through a game of representation. The sublime is, consequently, in Iser's sense, an instance of doubling. If violating norms creates new games, this crossing of boundaries depends on and carries in its wake the conventions and structures it oversteps. The sublime may be uncompromising, asocial, and unwilling to be bound by limits, but its pursuit of what is not contained in any order or system makes it dependent on the forms it opposes. [End Page 220]

The radical presumption of the sublime is not only terroristic in refusing to recognize the claims of other games whose rules it declines to limit itself by. It is also naive and self-destructive in its impossible imagining that it can do without the others it opposes. As a structure of doubling, the sublime pursuit of the unpresentable requires a play-space that includes other, less radical games with which it can interact. Such conditions of exchange would be provided by the nonconsensual reciprocity of Iserian play.

Iser's notion of play offers a way of conceptualizing power which acknowledges the necessity and force of disciplinary constraints without seeing them as unequivocally coercive and determining. The contradictory combination of restriction and openness in how play deploys power is evident in Iser's analysis of "regulatory" and "aleatory" rules. Even the regulatory rules, which set down the conditions participants submit to in order to play a game, "permit a certain range of combinations while also establishing a code of possible play. . . . Since these rules limit the text game without producing it, they are regulatory but not prescriptive. They do no more than set the aleatory in motion, and the aleatory rule differs from the regulatory in that it has no code of its own" (FI 273). Submitting to the discipline of regulatory restrictions is both constraining and enabling because it makes possible certain kinds of interaction that the rules cannot completely predict or prescribe in advance. Hence the existence of aleatory rules that are not codified as part of the game itself but are the variable customs, procedures, and practices for playing it. Expert facility with aleatory rules marks the difference, for example, between someone who just knows the rules of a game and another who really knows how to play it. Aleatory rules are more flexible and open-ended and more susceptible to variation than regulatory rules, but they too are characterized by a contradictory combination of constraint and possibility, limitation and unpredictability, discipline and spontaneity.

As a rule-governed but open-ended activity, play provides a model for deploying power in a nonrepressive manner that makes creativity and innovation possible not in spite of disciplinary constraints but because of them. Not all power is playful, of course, and some restrictions are more coercive than enabling. But thinking about the power of constraints on the model of rules governing play helps to explain the paradox that restrictions can be productive rather than merely repressive. Seeing constraints as structures for establishing a play-space and as guides for practices of exchange within it envisions power not necessarily and always as a force to be resisted in the interests of freedom; it allows imagining the potential for power to become a constructive social energy that can animate games of to-and-fro exchange between participants whose possibilities for self-discovery and self-expansion are [End Page 221] enhanced by the limits shaping their interactions. Whether the one or the other of these possibilities prevails in any particular situation is not intrinsic to the structure of power; it depends, rather, on how games are played.

# 1NR

## K

## Case

#### Essentializing blackness turns the case. Presumes they stand-in for all people of color – their posture produces depoliticizing white-spectatorship.

Chandra **MOHANTY** Distinguished Professor of Women's and Gender Studies, Sociology, and the Cultural Foundations of Education and Dean's Professor of the Humanities at Syracuse University **‘3** Feminism Without Borders p. 202-204

Barkley Brown draws attention to the centrality of experience in the classroom. While this is an issue that merits much more consideration than 1 can give here, a particular aspect of it ties into my general argument. Feminist pedagogy has always recognized the importance of experience in the classroom. Since women's and ethnic studies programs are fundamentally grounded in political and collective questions of power and inequality, questions of the politicization of individuals along race, gender, class, and sexual parameters are at the very center of knowledges produced in the classroom. This politicization often involves the "authorization" of marginal experiences and the creation of spaces for multiple, dissenting voices in the classroom. The authorization of experience is thus a crucial form of empowerment for students – a way for them to enter the classroom as speaking subjects. However, this focus on the centrality of experience can also lead to exclusions; it often silences those whose “experience” is seen to be that of the ruling-class groups. This more-authentic-than-thou attitude to experience also applies to the teacher. For instance, in speaking about Third World peoples, I have to watch constantly the tendency to speak "for" Third World peoples. For 1 often come to embody the "authentic" authority and experience for many of my students; indeed, they construct me as a native informant in the same way that left-liberal white students sometimes construct all people of color as the authentic voices of their people. This is evident in the classroom when the specific "differences" (of personality, posture, behavior, etc.) of one woman of color stand in for the difference of the whole collective, and a collective voice is assumed in place of an individual voice. In effect, this results in the reduction or averaging of Third World peoples in terms of individual personality characteristics: complex ethical and political issues are glossed over, and an ambiguous and more **easily manageable ethos** of the “**personal” and the “interpersonal**” takes their place. Thus a particularly problematic effect of certain pedagogical codifications of difference is the conceptualization of race and gender in terms of personal or individual experience.  
  
  
 Students often end up determining that they have to “be more sensitive” to Third World peoples. The formulation of knowledge and politics through these individualistic, attitudinal parameters indicates an erasure of the very politics of knowledge involved in teaching and learning about difference. It also suggests an erasure of the structural and institutional parameters of what it means to understand difference in historical terms. If all conflict in the classroom is seen and understood in personal terms, it leads to a comfortable set of oppositions; people of color as the central voices and the bearers of all knowledge in class, and white people as ‘observers’ with no responsibility to contribute and/or nothing valuable to contribute. In other words, white students are constructed as marginal observers and students of color as the real “knowers” in such a liberal or left classroom. While it may seem like people of color are thus granted voice and agency in the classroom, it is necessary to consider what particular kind of voice it is that is allowed them/us. It is a voice located in a different and separate space from the agency of white students. Thus, while it appears that in such a class the histories and cultures of marginalized peoples are now “legitimate” objects of study and discussion, the fact is that this legitimation takes place purely at an attitudinal, interpersonal level rather than in terms of a fundamental challenge to hegemonic knowledge and history. Often the culture in such a class vacillates between a high level of tension and an overwhelming desire to create harmony, acceptance of “difference,” and cordial relations in the classroom. Potentially this implicitly binary construction (Third World students vs. white students) undermines the understanding of complication that students must take seriously in order to understand "difference" as historical and relational. Coimplication refers to the idea that all of us (First and Third World) share certain histories as well as certain responsibilities: ideologies of race define both white and black peoples, just as gender ideologies define both women and men. Thus, while "experience" is an enabling focus in the classroom, unless it is explicitly understood as historical, contingent, and the result of interpretation, it can coagulate into frozen, binary, psychologistic positions.53 To summarize, this effective separation of white students from Third World students in such an explicitly politicized women's studies classroom is problematic because it leads to an attitudinal engagement that bypasses the complexly situated politics of knowledge and potentially shores up a particular individual-oriented codification and commodification of race. It implicitly draws on and sustains a discourse of cultural pluralism, or what Henry Giroux (1988) calls "the pedagogy of normative pluralism" (95), a pedagogy in which we all occupy separate, different, and equally valuable places and where experience is defined not in terms of individual qua individual, but in terms of an individual as representative of a cultural group. This results in a depoliticization and dehistoricization of the idea of culture and makes possible the implicit management of race in the name of cooperation and harmony.